

## REMARKS

Claims 2-6, 8-17 and 23-44 are active in this application. Claims 3 and 9 have been amended to define the stringent conditions as described in the specification on page 9, first paragraph. No matter is added. Favorable reconsideration is requested.

The rejection of the claims under 35 U.S.C. § 112, first paragraph is traversed for the following reasons.

As noted, *supra*, the claims have been amended to define that the DNA which hybridizes to the specific sequences under stringent conditions such that under those conditions the hybridizing DNA would have 90% homology and the requisite activity.

Applicants again direct the Examiner's USPTO "Synopsis of Application of Written Description Guidelines" Example 9. A copy was previously made of record.

In this example a situation that is analogous to the present claims as presented. The Patent Office's conclusion is that the claim in the example, which is similar to the stringent hybridization portions of Claims 3 and 9, is adequately described. Thus the present claims meet the requirements under 35 U.S.C. § 112, first paragraph ("written description") because "a representative number of species is disclosed, since highly stringent hybridization conditions in combination with the coating functions of DNA and the level of skill and knowledge in the art are adequate to determine that Applicant was in possession of the claimed invention." (See Example 9 of the "Synopsis").

In light of the foregoing, Applicants respectfully request that the rejection under 35 U.S.C. § 112, first paragraph is withdrawn.

With respect to the objection of Claim 13, Applicants note that this claim has been determined by the Examiner to be allowable but rejected due its dependency on a base claim (referring to page 6 of the Official Action, paper No. 10). Therefore as this objection applies

to the claims at issue, the objection to Claim 13 is obviated by amendment as Claim 9 has been amended.

Applicants submit that the present application is ready for allowance. Early notification of such allowance is kindly requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Norman F. Oblon  
Attorney of Record  
Registration No. 24,618

Daniel J. Pereira, Ph.D.  
Registration No. 45,518



**22850**

(703) 413-3000